

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE	*	CASE NO. 08-30512
XECHM, INC.	*	CHAPTER 7
Tax ID No. xx-xxx6864	*	HON. JACK B. SCHMETTERER
DEBTOR	*	
* * * * *	*	
IN RE	*	CASE NO. 08-30513
XECHM INTERNATIONAL, INC.	*	CHAPTER 7
Tax ID No. xx-xxx4803	*	HON. HACK B. SCHMETTERER
DEBTOR	*	
* * * * *	*	

**NOTICE OF MOTION**

**PLEASE TAKE NOTICE** that on **August 25, 2011**, at **10:00 a.m.**, the *First and Final Application for Compensation for the Period of November 1, 2008 through April 30, 2011* will be presented to the Honorable Jack B. Schmetterer, United States Bankruptcy Judge or any Judge sitting in his stead, in Courtroom 682, 219 South Dearborn Street, Chicago, Illinois, a copy of which is on file with the United States Bankruptcy Court for the Northern District of Illinois in the above captioned cases.

**PLEASE TAKE FURTHER NOTICE THAT THE PROPOSED ORDER APPENDED TO SAID MOTION MAY BE ENTERED BY THE JUDGE WITHOUT PRESENTMENT IN OPEN COURT UNLESS A PARTY IN INTEREST NOTIFIES THE JUDGE OF AN OBJECTION THERETO.**

Xechem, Inc. and Xechem International, Inc.

By: /s/ Douglas S. Draper  
One of Its Attorneys

Douglas S. Draper, #90784481  
Leslie A. Collins, LA Bar No. 14891  
Greta M. Brouphy, LA Bar No. 26216  
**Heller, Draper, Hayden, Patrick & Horn, L.L.C.**  
650 Poydras Street, Suite 2500  
New Orleans, Louisiana 70130  
Telephone: 504-299-3300; Fax 504-299-3399

**CERTIFICATE OF SERVICE**

The undersigned attorney certifies that a copy of the above Notice of Motion was served upon those parties receiving notification by participation in this Court's ECF system on July 26, 2011.

/s/ Douglas S. Draper

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XECHM, INC.	*	CHAPTER 7
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DEBTOR	*	HON. JACK B. SCHMETTERER
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XECHM INTERNATIONAL, INC.		CHAPTER 7
Tax ID No. xx-xxx4803	*	
DEBTOR		HON. HACK B. SCHMETTERER
* * * * *		

**FIRST AND FINAL APPLICATION FOR COMPENSATION  
FOR THE PERIOD OF NOVEMBER 1, 2008 THROUGH APRIL 30, 2011  
FOR HELLER, DRAPER, HAYDEN, PATRICK, & HORN, LLC**

NOW INTO COURT comes the law firm of Heller, Draper, Hayden, Patrick & Horn, L.L.C. ("Heller Draper" or the "Firm"), counsel herein to Xechem, Inc. and Xechem International, Inc. as debtors and debtors-in-possession herein ("Debtors"), and pursuant to pursuant to 11 U.S.C. §§330, 331, 503(b), 507 and 726 and to Fed.R.Bankr.P. 2016 submits this first and final application ("Final Application") for entry of an order granting to them an allowance and payment of compensation which totals \$216,245.03, representing:

- (1) \$192,927.50 in professional fees for services rendered by them from November 1, 2008 through April 30, 2011 (the "Fee Period"), and
- (2) \$23,317.53 in reimbursement of actual and necessary out-of-pocket expenses incurred by them during the Fee Period;

and Heller Draper represents as follows:

**Jurisdiction**

1.

This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. § 157(b). Venue is properly before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

**Background**

2.

On November 9, 2008, the Debtors filed their voluntary petitions for relief pursuant to Chapter 11 of Title 11, United States Code.

3.

On December 2, 2008, an Order [P-26] was entered providing for joint administration of the Debtors' cases under the above-referenced case numbers.

4.

On March 7, 2011, an Order [P-340] was entered converting the Debtors' Chapter 11 cases to cases under Chapter 7 of the Bankruptcy Code.

**The Firm's Employment as the Debtors' Counsel**

5.

This Court approved the employment of Heller Draper as counsel for the Debtors at a hearing conducted on December 4, 2008 [P-39] *nunc pro tunc* as of November 9, 2008. Heller Draper was paid a \$25,000.00 retainer for security for post-petition services.

6.

Heller Draper is entitled to make and makes this application pursuant to 11 U.S.C. §§330 and 331, and to Federal Rule of Bankruptcy Procedure 2016. Heller Draper has been granted no prior compensation in these cases.

7.

Since its employment, Heller Draper has provided legal services to the Debtors at all times during these proceedings, and has provided none to the Debtors which unnecessarily duplicate professional services performed by any other professional approved for employment herein.

8.

All services performed and expenses incurred by Heller Draper and on account of which compensation or reimbursement is now requested were performed or incurred solely for and on behalf of the Debtors, and for no other person or entity.

9.

Heller Draper has neither shared nor agreed to share any compensation awarded to them in these cases with any other person or entity, except as among the members and employees of the Firm.

10.

Heller Draper has made no agreements regarding its compensation or reimbursement in these proceedings, with the Debtors or with any other entity, which have not been disclosed to the Court.

**Relief Sought**

11.

By this Final Application and for the reasons set forth below, Heller Draper seeks entry of an order granting to them a first and final allowance of compensation in the amount of \$216,245.03; that is, fees of \$192,927.50 and costs of \$23,317.53 incurred by the Firm, attached

hereto and as set forth in detail in attached statements in Exhibit "A." Heller Draper is also seeking the authority to apply the \$25,000.00 retainer to any award granted herein.

12.

Heller Draper seeks \$192,927.50 in professional fees at its standard billing rates on account of services performed by various members and staff on behalf of the Debtors during the Fee Period, as follows:

<b>ATTORNEY/ PARAPROFESSIONAL</b>	<b>RATE</b>	<b>HOURS</b>	<b>TOTAL FEE</b>
Douglas S. Draper (Member)	\$350.00	148.00	\$ 51,800.00
Douglas S. Draper (travel rate) <sup>1</sup>	175.00	13.00	2,275.00
Constant G. Marquer, III (Member)	300.00	25.45	7,635.00
Deborah W. Fallis (Member)	325.00	43.70	14,202.50
Deborah W. Fallis (travel rate)	162.50	11.50	1,868.75
Leslie A. Collins (Member)	250.00	182.75	45,687.50
Linda A. Fauchaux (Associate)	200.00	97.50	19,500.00
Greta M. Brouphy (Associate)	240.00	95.95	23,028.00
Greta M. Brouphy (travel rate)	120.00	8.00	960.00
Greta M. Brouphy (new rate) <sup>2</sup>	280.00	12.50	3,500.00
Cherie D. Nobles (Associate)	175.00	22.25	3,893.75
Kendra M. Goodman (Associate)	280.00	7.30	2,044.00
Jeannette McCurnin (Paralegal)	80.00	29.50	2,360.00
Kelly Fritscher (Paralegal)	80.00	.80	64.00
Tanya A. Reeves (Paralegal)	80.00	55.50	4,440.00
Mary Dolan (Paralegal)	80.00	95.00	7,600.00
Kelly M. Dressner (Paralegal)	100.00	.50	50.00
Deborah Hepting (Legal Assistant)	70.00	23.00	1,610.00
Ladonna Bush (Legal Assistant)	65.00	3.80	275.00
Tammy Thiberville (Data Systems)	70.00	.50	35.00
Ian Larkin (Court Runner)	45.00	2.20	99.00
<b>Total Hours/ Fees</b>		<b>878.70</b>	<b>\$192,927.50</b>

13.

Heller Draper's monthly billing statements are attached hereto as Exhibit "A" and state the date on which each service for which compensation is sought was performed; the person or

<sup>1</sup> Time for travel was billed at either half the billing attorney's rate or half actual time spent traveling at full rate.

<sup>2</sup> Represents Fee Increase for Associate.

persons performing the service; the activity that occurred; and the time required performing the task.

14.

In addition, Heller Draper incurred actual and necessary out-of-pocket expenses in the amount of \$23,317.53 in connection with the professional services rendered by them to the Debtors during the Fee Period, as follows:

<b>Cost Category</b>	<b>Total</b>
Reproduction Expense	\$ 5,462.79
Office Reproduction Expense	242.50
Postage	72.98
Express Mail Deliveries	1,501.96
Facsimile	40.00
Chapter 11 Filing Fee	2,078.00
Pleadings Filing Fee	578.00
Mileage/Parking/Tolls	1,301.00
Airfaire	7,485.20
Hotel Expenses	2,319.40
Computer Research Services	459.44
Toll Calls	15.25
Charges for Long Distance Service	898.00
Miscellaneous	13.96
Travel Expense - Miscellaneous	412.11
Certified Copies	10.00
Court Run Charges	15.00
<b>TOTAL EXPENSES</b>	<b>\$ 23,317.53</b>

15.

Exhibit "A" sets forth, by date, each expense incurred by the Firm on account of its representation of the Debtors during the Fee Period. An itemized cost detail report included with Exhibit "A" groups each such expense chronologically within each cost category.

**Project Categories Under Which Fees Are Sought**

16.

For purposes of this Final Application, Heller Draper has categorized the 878.70 hours expended by them during this Fee Period among four (4) project category headings, as follows:

a) **Administration**

This category includes the usual Chapter 11 administrative functions required of the Firm in its representation of the Debtors, such as advising the Debtors in the operation of their businesses, reviewing claims, reviewing for conveyance actions, monthly operating reports, lift stay motions, and the conduct of these proceedings. During the Fee Period, Heller Draper rendered the following services:

<b><u>ATTORNEY/ PARAPROFESSIONAL</u></b>	<b><u>RATE</u></b>	<b><u>HOURS</u></b>	<b><u>TOTAL FEE</u></b>
Douglas S. Draper (Member)	\$350.00	75.90	\$ 26,565.00
Constant G. Marquer, III (Member)	300.00	24.85	7,455.00
Deborah W. Fallis (Member)	325.00	36.30	11,797.50
Leslie A. Collins (Member)	250.00	78.45	19,612.50
Linda A. Faucheux (Associate)	200.00	95.40	19,080.00
Greta M. Brouphy (Associate)	240.00	67.40	16,176.00
Greta M. Brouphy (fee increase)	280.00	2.25	630.00
Cherie D. Nobles (Associate)	175.00	6.15	1,076.25
Kendra M. Goodman (Associate)	280.00	7.30	2,044.00
Jeannette McCurnin (Paralegal)	80.00	28.75	2,300.00
Kelly Fritscher (Paralegal)	80.00	.80	2,664.00
Tanya A. Reeves (Paralegal)	80.00	33.30	776.00
Mary Dolan (Paralegal)	80.00	79.90	6,392.00
Kelly M. Dressner (Paralegal)	100.00	.50	50.00
Deborah Hepting (Legal Assistant)	70.00	22.40	1,568.00
Ladonna Bush (Legal Assistant)	65.00	3.80	275.00
Tammy Thiberville (Data Systems)	70.00	.50	35.00
Ian Larkin (Court Runner)	45.00	2.20	99.00
<b>Total Hours/ Fees</b>		<b>566.15</b>	<b>\$117,883.25</b>

b) **Schedules, Statements of Financial Affairs, Operating Reports, First-Day Pleadings and Orders, Initial Debtor Interviews and Section 341 Meeting (chapter 11 and chapter 7):**



This category treats the Firm's work on the Debtors' first-day orders, related pleadings, financial schedules and reports, preparation and attending at the initial Debtors' interview and preparation and appearance at the Section 341 meeting. During the Fee Period, Heller Draper

<b>ATTORNEY/ PARAPROFESSIONAL</b>	<b>RATE</b>	<b>HOURS</b>	<b>TOTAL FEE</b>
Douglas S. Draper (Member)	\$350.00	32.50	\$ 11,375.00
Constant G. Marqure, III (Member)	300.00	.60	180.00
Leslie A. Collins (Member)	250.00	71.10	17,775.00
Greta M. Brouphy (Associate)	240.00	5.00	1,200.00
Linda A. Fauchaux (Associate)	200.00	2.10	420.00
Cherie D. Nobles (Associate)	175.00	16.0	2,817.50
Tanya A. Reeves (Paralegal)	80.00	2.20	1,776.00
Jeannette McCurnin (Paralegal)	80.00	.75	60.00
Mary Dolan (Paralegal)	80.00	15.00	1,200.00
Deborah Hepting (Legal Assistant)	70.00	.60	42.00
<b>Total Hours/ Fees</b>		<b>165.95</b>	<b>36,845.50</b>

c) Client Communication

This category reasonably comprises most communications with the Debtors apart from those communications specifically falling under other project headings. During the Fee Period, Heller Draper rendered the following services:

<b>ATTORNEY/ PARAPROFESSIONAL</b>	<b>RATE</b>	<b>HOURS</b>	<b>TOTAL FEE</b>
Douglas S. Draper (Member)	\$350.00	12.60	4,410.00
Deborah W. Fallis (Member)	325.00	7.40	2,405.00
Leslie A. Collins (Member)	250.00	33.20	8,300.00
Greta M. Brouphy (Associate)	240.00	13.55	3,252.00
Greta M. Brouphy (fee increase)	480.00	10.25	2,870.00
Mary Dolan (Paralegal)	80.00	.10	80.00
<b>Total Hours/ Fees</b>		<b>77.10</b>	<b>\$ 21,245.00</b>

d) Travel

This category includes the time spent traveling and is either billed at half the normal hourly rate or full hourly rate but half the time spent traveling. For the Fee Period, Heller Draper incurred the following:

<b>ATTORNEY/ PARAPROFESSIONAL</b>	<b>RATE</b>	<b>HOURS</b>	<b>TOTAL FEE</b>
Douglas S. Draper (Member)	\$350.00	27.00	9,450.00

Douglas S. Draper (travel rate)	175.00	13.00	2,275.00
Deborah W. Fallis (travel rate)	162.50	11.50	1,868.75
Greta M. Brouphy (Associate)	240.00	10.00	2,400.00
Greta M. Brouphy (travel rate)	120.00	8.00	960.00
<b>Total Hours/ Fees</b>		<b>69.50</b>	<b>\$ 16,953.75</b>

**Factors Supporting the First and Final Award Application**

17.

The services rendered by Heller Draper to the Debtors are of benefit to the estates, and satisfy the factors in *Johnson v. Georgia Highway Express*, 488 F.2d 714 (5<sup>th</sup> Cir 1974), as set forth below:

a) The time and labor required

The professional fees for Heller Draper's services in these cases for the Fee Period total \$192,927.50 at the hourly rates commensurate with the work and services necessary for the representation of the Debtors. The hours of service rendered is 878.70 for a blended hourly rate of \$219.56.

b) The skill required to perform the legal services properly

The services that Heller Draper was engaged to provide to the Debtors required a substantial level of skill given the posture of the case.

c) The preclusion of other employment

There has been no preclusion of employment.

d) The customary fee

Heller Draper seeks fees for its services at the Firm's standard rates, and submits that same are fair and reasonable when compared with rates charged by and fees allowed to other counsel of similar experience and expertise in comparable cases.

e) Whether the fee is fixed or contingent

The fees sought are not contingent, except to the extent that any fees due to Debtors, counsel in a pending bankruptcy case are contingent upon the success of the case and the availability of cash.

f) Time limitations imposed by the client or circumstances

There was no extraordinary time constraint.

g) The experience, reputation and ability of the professionals

Heller Draper believes and respectfully submits that its attorneys are highly regarded as experts in the areas of bankruptcy, insolvency, and corporate reorganization in and beyond the State of Louisiana. The Firm has extensive experience in handling bankruptcy and insolvency matters on behalf of debtors in bankruptcy cases, and has acted as counsel to other debtors in other cases in this District. Mr. Draper and other members of the Firm have represented major parties in most of the complex business bankruptcies in the State of Louisiana and in other districts.

h) The undesirability of the case

No factors make these cases less desirable than others.

i) The nature and length of the professional relationship

Other than as disclosed in the Affidavit of Douglas S. Draper, accompanying the Debtors' application to employ the Firm, Heller Draper has had no relationship with the Debtors prior to the Firm's retention in connection with these cases.

j) Awards in similar cases.

Heller Draper alleges that an order of compensation on the basis prayed for is consistent with awards made in similar cases in this District. Heller Draper further submits that the rates charged reasonably compensate the Firm for the services provided

by its attorneys and paraprofessionals, given the experience and expertise of each of them. The rates charged are standard rates typically charged by the Firm for comparable services provided to other clients.

18.

In addition, 11 U.S.C. §330 provides that a court may award to a professional person employed pursuant to Section 327 of the Bankruptcy Code “reasonable compensation for actual, necessary services rendered by the . . . attorney and by any paraprofessional person employed by [him]; and . . . reimbursement for actual, necessary expenses.”

19.

Under 11 U.S.C. § 330, relevant factors that courts are to consider in determining reasonable awards of compensation include: (a) the time devoted to the services; (b) the rates charged for them; (c) whether or not the services were necessary to the administration of the case, or, when rendered, were beneficial towards completing it; (d) whether the services were performed in a reasonable amount of time in keeping with the complexity, importance, and nature of the problem, issue, or task addressed; (e) whether the professional is board certified or otherwise is a demonstrably skilled and experienced bankruptcy practitioner; and (f) whether the compensation is reasonable in light of the compensation customarily charged by comparable practitioners in non-bankruptcy cases.

*Id.*

20.

The Firm submits that the services it has provided to the Debtors were of direct benefit to the estates and the administration of these cases; and that, for these reasons and

those set forth above, the compensation sought is reasonable in light of the services provided.

**Retainer Held**

21.

Heller Draper holds a \$25,000.00 retainer against the compensation sought herein and requests the authority to apply \$25,000.00 toward any award granted to Heller Draper.

**Request for Final Application**

22.

This Final Application also serves as the first and final fee application. Heller Draper requests an order granting the allowance of final compensation for professional services rendered to the Debtors during the Fee Period in the amount of \$216,245.03 consisting of professional fees incurred of \$192,927.50 and the reimbursement of expenses of \$23,317.53 pursuant to 11 U.S.C. §§ 503(b)(4), 507(a)(2) and 726.

WHEREFORE, Heller, Draper, Hayden, Patrick & Horn, L.L.C., prays for the entry of an Order:

1. Granting Heller Draper a final award in the total amount of \$216,245.03, representing:

(a) \$192,927.50 in professional fees for services rendered by them from November 1, 2008 through April 30, 2011;

(b) \$23,317.53 in reimbursement of actual and necessary out-of-pocket expenses incurred by them from November 1, 2008 through April 30, 2011; and

(c) the authority to apply \$25,000.00 of the retainer as requested in the Final Application for any award granted herein.

2. Authorizing the appointed Chapter 7 Trustee to pay said compensation to Heller Draper after application of the retainer upon this order becoming final and pursuant to 11 U.S.C. § 726.

Respectfully submitted,

/s/ Douglas S. Draper

Douglas S. Draper, IL Bar No. #90784481

Leslie A. Collins, LA Bar No. 14891

Greta M. Brouphy, LA Bar No. 26216

**Heller, Draper, Hayden, Patrick & Horn, L.L.C.**

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Counsel for Debtors during Chapter 11 Proceeding

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
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XECHEM, INC.	*	CHAPTER 7
Tax ID No. xx-xxx6864	*	HON. JACK B. SCHMETTERER
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Tax ID No. xx-xxx4803	*	HON. HACK B. SCHMETTERER
DEBTOR	*	
* * * * *	*	

**COVERSHEET FOR APPLICATION FOR COMPENSATION**

Name of Applicant:	Heller, Draper, Hayden, Patrick & Horn, LLC
Authorized to Provide Professional Services to:	Xechem, Inc. and Xechem International, Inc.
Date of Order Authorizing Employment:	December 4, 2008 Retroactive to November 9, 2008
Period for which Compensation is Sought:	November 1, 2008 through April 30, 2011
Amount of Fees Sought:	\$192,927.50
Amount of Expenses Reimbursement Sought:	\$23,317.53
Amount of Retainer	\$25,000.00
This is the First and Final Application	Heller, Draper, Hayden, Patrick & Horn, LLC
Date: July 26, 2011	By: <u>/s/ Douglas S. Draper</u> One of its Attorney